IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

CRL.A.No. 1009 of 2001(C)

CC.978/1998 of JUDL.MAGISTRATE OF FIRST CLASS-III, KOTTAYAM
CRL.M.C. NO.253/2001 DATED 23/1/2001

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APPELLANT:

VARGHESE THARAKAN, THARAKAN HOUSE,
PALLOM P.O., KOTTAYAM

BY ADV. SRI.ANTONY C. ETTUKETTIL

RESPONDENTS:

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1. P.K.SADANANDAN, SECRETARY, CENTRAL KERALA GENERAL MARKETING & PROCESSING CO-OPERATIVE SOCIETY LTD. NO.898, PUTHENPARAMBIL HOUSE, NATTAKOM P.O., KOTTAYAM

2. P.N.SOMASUNDARAM, TREASURER, - DO- PUTHENPARAMBIL HOUSE, NATTAKOM P.O., KOTTAYAM

3. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM

BY PUBLIC PROSECUTOR, SRI C.K.SURESH

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 02/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.1009 of 2001(D)

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Dated this the 2nd day of July, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.978/1998 the file of the Judicial Magistrate of First Class Court-III, Kottayam, the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256(1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of the wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 31-7-2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.A.No.1009 of 2001

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J U D G M E N T

2nd July, 2007